



Judicial Impact Statement

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SENATE BILL 66 (SENTENCING MODIFICATION - REHABILITATION)

TITLE INFORMATION

To amend sections 2929.11, 2929.13, 2929.15, 2929.16, 2929.19, 2951.041, 2953.31, 2967.16, and 2967.28 of the Revised Code to modify criminal sentencing and corrections law by including rehabilitation as a purpose of felony sentencing, removing the one-year minimum for presumptive fourth or fifth degree felony community control sanctions, modifying sanctions for a violation of a community control condition, modifying the manner of calculating confinement credits, modifying eligibility criteria and procedures for granting intervention in lieu of conviction, making offenders convicted of certain multiple fourth or fifth degree felonies eligible for criminal record sealing, revising procedures for the Adult Parole Authority to grant a final release or terminate post-release control, and modifying the criteria for considering a prison term sanction for a post-release control violation.

Sponsor

Sen. Eklund, Tavares

Version

As Introduced

IMPACT SUMMARY

Senate Bill 66 will have a positive impact on Ohio courts and their ability to fairly and effectively administer justice. The bill will bring clarity to the law, improve public confidence in the law, and will enable judges to better use limited resources to rehabilitate offenders.

BACKGROUND

Senate Bill 66 contains two Judicial Conference Legislative Platform items - it eliminates the one-year mandatory minimum sentence to community control for non-violent fourth and fifth degree felonies and clarifies that an offender may be sent to a community-based correctional facility (CBCF) or jail for a term of up to six months for community control violations. Additionally, the bill expands judicial discretion over intervention in lieu of conviction and record sealing, two proposals that will improve public confidence in the courts and in the law.

JUDICIAL IMPACT

R.C. 2929.13 - Eliminating the one-year minimum for community control. Eliminating the one-year minimum for community control grants courts and their probation departments greater control over the use of limited resources.

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

Judges understand the need for the vast majority of offenders to receive, at a minimum, some form of community control sanction or combination of sanctions. They also understand the need, in many cases, for these sanctions to be in place for lengthy periods of time. Nevertheless, there are a limited number of cases where the one-year minimum period found in R.C. 2929.13 is unnecessary and creates a drain on probation resources that would be better directed toward other offenders. Judges are in the best position to determine what sanction or sanctions an offender needs and how long those sanctions should be in place. An offender who is at a low risk to reoffend does not necessarily need the same lengthy sanction that an offender who is at a high risk does.

R.C. 2929.15 and 2929.16 – Sanctions for community control violations. Current law authorizes a judge to impose up to six months in a community-based correctional facility (CBCF) or jail as part of community control. In some cases, an offender will spend time in the CBCF and/or jail as part of the underlying sentence. When that happens, it is not clear that a judge has the authority to use a CBCF or jail for any subsequent violations of community control. So, for example, if an offender is placed on community control for a period of three years, spends the first year in jail/a CBCF, and then violates community control in year two when they are out in the community on supervision, it is not clear that judges can then punish that violation with time in jail, a tool that judges necessarily use to encourage compliance with community control. The proposed changes to R.C. 2929.15 and R.C. 2929.16 will clarify that judges have additional time to use for such violations. The change will better enable judges to encourage compliance with other community control sanctions such as treatment and, ultimately, will better enable them to rehabilitate offenders.

R.C. 2951.041 – Expansion of judicial discretion over intervention in lieu of conviction. The determination regarding what offenses should be eligible for intervention in lieu of conviction (ILC) is a policy decision that is within the purview of the General Assembly. There are however, two requirements in the current ILC statute that negatively impact the court’s ability to fairly administer justice – that the prosecuting attorney recommend an offender for ILC and that the offender not previously have been through ILC or a similar regimen. Determining which offenders should receive intervention in lieu of conviction should not be the sole province of the prosecutor. The judge also is responsible to the community and to the offender for ensuring the proper administration of justice. There may be times when the judge feels that offering an offender treatment through ILC (or a second chance at treatment through ILC) would be better for that offender and for the community than post-conviction court-ordered treatment to which collateral consequences attach. Judges should have the discretion to decide without needing to rely on a recommendation from the prosecutor. The proposal will improve public confidence in the law.

R.C. 2953.31 – Expansion of judicial discretion to seal certain criminal records. Finally, the Judicial Conference supports expanding eligibility for record sealing under R.C. 2953.31 as long as the ultimate decision about whether to seal an applicant’s records remains within the sound discretion of the judge. Both misdemeanor and felony convictions come with collateral consequences that can be barriers to rehabilitation. These consequences make it difficult for many offenders to get a job, maintain or obtain housing, and otherwise become contributing members of society. More importantly, they can remain as consequences long after the court has determined that the individual has otherwise been rehabilitated. Record sealing helps alleviate these consequences and improve offenders’ chances at rehabilitation. The proposal will improve public confidence in the law.

RECOMMENDATION

The Ohio Judicial Conference recommends passage of Senate Bill 66.